



COUNCIL CHAMBERS

17555 PEAK AVENUE MORGAN HILL CALIFORNIA 95037

COUNCIL MEMBERS	REDEVELOPMENT AGENCY
Dennis Kennedy, Mayor	Dennis Kennedy, Chair
Steve Tate, Mayor Pro Tempore	Steve Tate, Vice-Chair
Larry Carr, Council Member	Larry Carr, Agency Member
Mark Grzan, Council Member	Mark Grzan, Agency Member
Greg Sellers, Council Member	Greg Sellers, Agency Member

WEDNESDAY, MARCH 2, 2005

AGENDA

JOINT MEETING

CITY COUNCIL SPECIAL AND REGULAR MEETING

and

REDEVELOPMENT AGENCY SPECIAL MEETING

6:00 P.M.

A Special Meeting of the City Council and Redevelopment Agency is Called at 6:00 P.M. for the Purpose of Conducting Closed Sessions.

Dennis Kennedy, Mayor/Chairman

CALL TO ORDER

(Mayor/Chairperson Kennedy)

ROLL CALL ATTENDANCE

(City Clerk/Agency Secretary Torrez)

DECLARATION OF POSTING OF AGENDA

Per Government Code 54954.2

(City Clerk/Agency Secretary Torrez)

6:00 P.M.

City Council Action and Redevelopment Agency Action

CLOSED SESSION:

1.

CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION

Authority: Government Code Sections 54956.9(b) & (c)
Number of Potential Cases: 4

OPPORTUNITY FOR PUBLIC COMMENT

ADJOURN TO CLOSED SESSION

RECONVENE

CLOSED SESSION ANNOUNCEMENT

7:00 P.M.

SILENT INVOCATION

PLEDGE OF ALLEGIANCE

INTRODUCTIONS

Government Access Technician
Larry Talbot

RECOGNITIONS

Community and Cultural Center Lighting Installation
Jon Maxey, Jim Tarp and Bob Foster

PROCLAMATIONS

Colon Cancer Free Zone
American Cancer Society Representative

PRESENTATIONS

Water Resource Protection Collaborative
Rosemary Kamei and Rick Callender, Santa Clara Valley Water District

Presentation of 10851 (Auto Theft) Pin
Police Sergeant Swing

CITY COUNCIL REPORT

Mayor Kennedy

CITY COUNCIL SUB-COMMITTEE REPORTS

CITY MANAGER'S REPORT

CITY ATTORNEY'S REPORT

OTHER REPORTS

PUBLIC COMMENT

NOW IS THE TIME FOR COMMENTS FROM THE PUBLIC REGARDING ITEMS NOT ON THIS AGENDA.

(See notice attached to the end of this agenda.)

**PUBLIC COMMENTS ON ITEMS APPEARING ON THIS AGENDA WILL BE TAKEN AT THE TIME
THE ITEM IS ADDRESSED BY THE COUNCIL. PLEASE COMPLETE A SPEAKER CARD AND
PRESENT IT TO THE CITY CLERK.**

(See notice attached to the end of this agenda.)

**PLEASE SUBMIT WRITTEN CORRESPONDENCE TO THE CITY CLERK/AGENCY SECRETARY. THE
CITY CLERK/AGENCY SECRETARY WILL FORWARD CORRESPONDENCE TO THE CITY
COUNCIL/REDEVELOPMENT AGENCY.**

City Council Action

CONSENT CALENDAR:

ITEMS 1-8

The Consent Calendar may be acted upon with one motion, a second and the vote, by each respective Agency. The Consent Calendar items are of a routine or generally uncontested nature and may be acted upon with one motion. Pursuant to Section 5.1 of the City Council Rules of Conduct, any member of the Council or public may request to have an item pulled from the Consent Calendar to be acted upon individually.

Time Estimate

Page

Consent Calendar: 1 - 10 Minutes

1. **CONSIDER REQUEST FROM THE CENTENNIAL MORGAN HILL COMMITTEE FOR FUNDING ASSISTANCE**6
Recommended Action(s): Appropriate \$29,500 of RDA Funds to the Centennial Committee.
2. **ESTABLISH APRIL 2005 AS THE MONTH TO INTERVIEW TO FILL VACANCIES ON THE LIBRARY AND PARKS & RECREATION COMMISSIONS**7
Recommended Action(s): Direct Staff to Schedule Interviews in April to Fill Vacancies on the Library and Parks & Recreation Commissions.
3. **ACCEPTANCE OF DONATION FOR THE COMMUNITY AND CULTURAL CENTER HOLIDAY LIGHTING**8
Recommended Action(s): Accept Donation of Labor and Parts through the Hometown Holidays of Morgan Hill, Inc. and Individuals Jim Tarp and Jon Maxey.

	Time Estimate	Page
	Consent Calendar: 1 - 10 Minutes	
4.	<u>AMENDMENT TO CONTRACT PROVIDING PLAN CHECKING SERVICES ON AN AS-NEEDED BASIS</u>	9
	Recommended Action(s):	
	1. Approve the Amendment to the Contract with Harris & Associates to Increase the Contract Amount by \$45,000; and	
	2. Authorize the City Manager to Execute the Contract Amendment, Subject to Review and Approval by the City Attorney.	
5.	<u>AMENDMENT TO ANNUAL CONTRACT WITH REPUBLIC ELECTRIC FOR TRAFFIC SIGNAL MAINTENANCE</u>	10
	Recommended Action(s): Approve the Amendment to the Agreement Dated July 7, 2004 with Signal Maintenance to Increase the Maximum Compensation from \$100,000 to \$145,000; Subject to Review and Approval by City Attorney.	
6.	<u>APPROVE PAYMENT TO GRANITE CONSTRUCTION FOR EXTRA WORK RELATIVE TO THE ANNUAL ASPHALT MAINTENANCE CONTRACT</u>	11
	Recommended Action(s): Approve Payment in the Amount of \$21,245.75 to Granite Construction for Pothole Call-Outs in Excess of the Contracted Cost for Annual Pavement Repair.	
7.	<u>AWARD OF PROFESSIONAL SERVICES CONTRACT FOR THE PREPARATION OF AN ADDENDUM TO THE FINAL ENVIRONMENTAL IMPACT REPORT FOR BUTTERFIELD BOULEVARD</u>	12
	Recommended Action(s): Authorize the City Manager to Execute a Consultant Agreement for Preparation of an Addendum to the 1992 Environmental Impact Report (SEIR) with David J. Powers and Associates, Inc. for the Purpose of Extending Butterfield Boulevard South, From Tennant Avenue to Watsonville Road; Subject to Review and Approval by the City Attorney.	
8.	<u>APPROVE SPECIAL CITY COUNCIL MEETING MINUTES OF FEBRUARY 16, 2005</u>	13

City Council and Redevelopment Agency Action

CONSENT CALENDAR:

ITEM 9

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	Consent Calendar: 1 - 10 Minutes	
9.	<u>APPROVE JOINT SPECIAL AND REGULAR CITY COUNCIL AND SPECIAL REDEVELOPMENT AGENCY MEETING MINUTES OF FEBRUARY 16, 2005</u>	15

City Council Action

PUBLIC HEARINGS:

	Time Estimate		Page
10.	15 Minutes	<u>ZONING AMENDMENT, ZA-04-22: CITY OF MORGAN HILL-ACREAGE REQUIRED FOR ANIMALS</u>	38
		Public Hearing Opened. Please Limit Your Remarks to 3 Minutes. Public Hearing Closed Council Discussion. Action- <u>Motion to Waive</u> the Reading in Full of Ordinance Approving Text Amendment to Chapter 6.36 (Animals and Land Use) of the Municipal Code. Action- <u>Motion to Introduce</u> Ordinance by Title Only. (Roll Call Vote)	
11.	10 Minutes	<u>ZONING AMENDMENT, ZA-04-24: CITY OF MORGAN HILL-FENCE HEIGHT AMENDMENT</u>	43
		Public Hearing Opened. Please Limit Your Remarks to 3 Minutes. Public Hearing Closed Council Discussion. Action- <u>Motion to Waive</u> the Reading in Full of Ordinance Approving Text Amendments to Chapter 18.56 (Exception and Modifications) of the Municipal Code. Action- <u>Motion to Introduce</u> Ordinance by Title Only. (Roll Call Vote)	

City Council Action

OTHER BUSINESS:

	Time Estimate		Page
12.	15 Minutes	<u>EFFECTIVE USE OF CITY COUNCIL ADVISORY BOARDS, COMMITTEES AND COMMISSIONS, INCLUDING WORKPLAN DISCUSSIONS</u>	47
		<u>Recommended Action(s):</u> 1. <u>Consider</u> Response from Parks & Recreation and Library Commissions Regarding Terms of Office Schedule; and 2. Council <u>Discussion</u> and <u>Direction</u> .	
13.	5 Minutes	<u>CONSIDERATION OF COUNCIL'S 2005 GOALS</u>	49
		<u>Recommended Action(s): Adopt</u> the Revised Draft 2005 Goals	

FUTURE COUNCIL-INITIATED AGENDA ITEMS:

Note: in accordance with Government Code Section 54954.2(a), there shall be no discussion, debate and/or action taken on any request other than providing direction to staff to place the matter of business on a future agenda.

ADJOURNMENT



CITY COUNCIL STAFF REPORT

MARCH 2, 2005

Agenda Item # 1

Prepared By:

**Council Services &
Records Manager**

Submitted By:

City Manager

CONSIDER REQUEST FROM THE CENTENNIAL MORGAN HILL COMMITTEE FOR FUNDING ASSISTANCE

RECOMMENDED ACTION(S): Appropriate \$29,500 of RDA funds to the Centennial Committee

EXECUTIVE SUMMARY:

At the February 16, 2005 meeting, the Council received a report and recommendation from the Council appointed Centennial Steering Committee. The Centennial Steering Committee offered the following recommendations: 1) The City Council appoint the 2006-Centennial Steering Committee as the permanent Centennial Morgan Hill Committee; and 2) Approve the budget as presented by the Steering Committee. The City Council unanimously appointed Brad Jones, Marilyn Librers, Janie Knopf, Jennifer Tate, Irma Torrez, Vivian Varela, Lorraine Welk, and Ellie Weston as the Committee who will plan the City's centennial festivities with the stipulation that the committee is to include a broader section of the committee (diversity).

Regarding the request for the approval of the Centennials budget, the Council directed that the Committee identify the amount of seed money needed from the requested \$100,000 in City assistance (\$50,000 in the form of a loan and \$50,000 in-kind services) to move forward with the centennial celebration activities. Once the amount of seed money is identified, the remaining amount of the \$100,000 would return to the Council as part of the Fiscal Year 2005-06 budget process. Staff reports that the Centennial Morgan Hill Committee met on Thursday, February 24, 2005 in order to review the amount of funding needed, upfront, to commence with the planning of the centennial celebration/activities. The Committee has identified the following immediate expenditure needs:

- \$25,000 for the purchase of centennial products (marketing)
- \$2,500 for printing, phone line, and post office box rental
- \$1,000 to design and implement a website, design a logo, purchase letterhead/envelops and to help pay for the cost of the initial mailing to clubs and organizations
- \$1,000 for the purchase of Indemnification Insurance

Therefore, the Committee is requesting that the Council appropriate \$29,500 in start up funds to be used to commence the work of the committee.

A possible source of funding for the Centennial Morgan Hill Committee is the \$11,400 budgeted in the Community Promotion's budget. At the February 16, 2006 meeting, a question was raised whether Independence Day, Inc. (IDI) would be requesting funding for the 2005 Fourth of July Celebration. Staff understands that IDI will be requesting that the Council co-sponsor and allocate the full \$11,400, if not more, from the Community Promotion's budget to help offset the costs associated with the Fourth of July festivities.

Also, at the Council's February 16 meeting, the City Council unanimously approved the Mayor's appointment of himself and Council Member Sellers to the Centennial Morgan Hill Committee.

FISCAL IMPACT: Staff identified 3 founding sources on February 16: 1) \$11,400 from the Community Promotion's budget; 2) General Fund Reserves; and/or 3) Redevelopment Agency's Economic Development Fund for special events that promote the downtown. As IDI will be seeking funding assistance, staff recommends that the Community Promotion's budget be reserved for their funding request. Staff recommends the Council appropriate \$29,500 from the unallocated Redevelopment Agency Funds, leaving \$670,500 for other public projects, should the Council wish to proceed with funding assistance.



CITY COUNCIL STAFF REPORT

MEETING DATE: March 3, 2005

Agenda Item # 2

Prepared By:

**Council Services &
Records Manager**

Submitted By:

City Manager

ESTABLISH APRIL 2005 AS THE MONTH TO INTERVIEW TO FILL VACANCIES ON THE LIBRARY AND PARKS & RECREATION COMMISSIONS

RECOMMENDED ACTION(S): Direct staff to schedule Interviews in April to Fill Vacancies on the Library and Parks & Recreation Commissions

EXECUTIVE SUMMARY:

The City Council has established April 1 as the date for terms to expire on the Library and Parks & Recreation Commissions. Staff has commenced the recruitment process to fill two vacancies on the Library Commission and three vacancies on the Parks & Recreation Commission. Applications are due to be submitted to the City Clerk's Office by Friday, March 18, 2005. The City Clerk's office will continue to accept applications until the vacancies are filled by the Council.

The Council previously amended the Municipal Code to allow the appointment of up to nine (9) citizens to serve on the Library Commission. Four (4) Library Commissioners will have terms expiring April 1, 2005. The Council agreed to reduce the Library Commission back to a seven-member Commission. As such, staff has advertised to fill two vacancies. This will result in having two commissioners being appointed with terms expiring April 1, 2007 and five commissioners with terms expiring April 1, 2006. In 2006, staff will be returning to the Council recommending that it be authorized to fill four vacancies as follows: 4 appointments with 2-year terms; and 1 appointment with a one year term. This modification is being recommended in order to make this Commission's terms staggered more evenly (4 and 3 staggered terms).

Staff requests that it be given the flexibility to schedule interviews on Wednesday, April 6, 5:00 p.m., prior to closed sessions and the regular meeting session, if it is found that interviews for both the Library and Parks & Recreation Commission can be accommodated in the one hour time slot allocated. If we have several applicants wishing to interview to fill the vacancies, staff recommends that the Council reserve Wednesday, April 13, 2005, 6:00 p.m. as the date and time to interview candidates to fill the vacancies. Should it be necessary to schedule the interviews on April 13, staff recommends that the terms of the four Library Commissioners be extended to May 1, 2005 as the next regularly scheduled Library Commission meeting is scheduled for April 11, 2005.

FISCAL IMPACT: No budget adjustment required.



CITY COUNCIL STAFF REPORT

MEETING DATE: March 2, 2005

Agenda Item # 3

Prepared By:

**Recreation &
Community Services
Manager**

Submitted By:

City Manager

ACCEPTANCE OF DONATION FOR THE COMMUNITY AND CULTURAL CENTER HOLIDAY LIGHTING

RECOMMENDED ACTION(S): Accept donation of labor and parts through the Hometown Holidays of Morgan Hill, Inc. and individuals Jim Tarp and Jon Maxey.

EXECUTIVE SUMMARY:

The Hometown Holidays of Morgan Hill, Inc. was established in 2003 to showcase our community during the winter holidays. Their mission is to foster a sense of local community and encourage families to gather and enjoy a festive holiday event in the Morgan Hill downtown area, its businesses and restaurants. In keeping with the mission, the Hometown Holidays has sponsored annually a school holiday tree decorating contest within the amphitheater of the Community and Cultural Center. In order to expand on the holiday decorations, Hometown Holidays Chairman Bob Foster asked community members Jim Tarp and Jon Maxey if they would considered installing holiday lights along the roof line of the center and adjoining Gavilan College.

This was completed in December 2004 as a temporary light decoration so Council may view and determine if this should become a permanent addition. It appears that Council is ready to accept the donation and have the lights remain on the structure.

Pursuant to the City's Administrative Policy V009 "Donation Policy", donations with estimated values of \$5,000 or more must be formally accepted by the City Council. As the estimated value of the donated parts and labor is at \$15,000 by Jim Tarp and Jon Maxey to the City of Morgan Hill, staff is requesting that Council accept the donation.

FISCAL IMPACT: Undetermined at this time the utility cost impact but with prudent monitoring of the lights and seasonal use, the impact should be minimal and contained within the center's utility budget.



CITY COUNCIL STAFF REPORT

MEETING DATE: March 2, 2005

AMENDMENT TO CONTRACT PROVIDING PLAN CHECKING SERVICES ON AN AS-NEEDED BASIS

RECOMMENDED ACTION(S):

1. Approve the attached amendment to the contract with Harris & Associates to increase the contract amount by \$45,000.
2. Authorize the City Manager to execute the contract amendment.

EXECUTIVE SUMMARY: Private land development activity and its associated plan check workload continues to extend beyond our current staff level. As such, additional contract assistance is needed.

In June 2004, the City Council approved a contract with Harris and Associates for \$100,000 to assist Public Works staff with plan checking services (attached as Exhibit "A"). Staff estimated that this contract would cover plan checking services for the entire fiscal year. However, due to heavy residential land development activity this past fall and winter the contract funds have been expended sooner than anticipated. Therefore, an additional \$45,000 is needed to cover the cost of plan checking services for the balance of the fiscal year.

The amendment to the attached contract will enable the City to provide timely plan checking services for the remainder of the fiscal year. The funds to pay for these services are collected from the fees paid for land development processing. Estimated plan check revenue for FY 04/05 was \$470,000; through January 31, 2005 we have already collected \$705,736.

FISCAL IMPACT: The additional contract cost for the contract plan checking services is \$45,000 and will be funded from our Contract Services sub-account in the Public Works Community Development Engineering account.

Agenda Item # 4

Prepared By:

Senior Civil Engineer

Approved By:

Public Works Director

Submitted By:

City Manager



CITY COUNCIL STAFF REPORT

MEETING DATE: March 2, 2005

AMENDMENT TO ANNUAL CONTRACT WITH REPUBLIC ELECTRIC FOR TRAFFIC SIGNAL MAINTENANCE

RECOMMENDED ACTION(S):

Approve the attached Amendment to the Agreement dated July 7, 2004 with Signal Maintenance to increase the maximum compensation from \$100,000 to \$145,000.

EXECUTIVE SUMMARY:

On July 7, 2004 Council awarded the annual contract to Signal Maintenance in the amount of \$100,000 (\$50,000 FY04/05 and \$50,000 FY05/06). The contract provides for routine monthly traffic signal maintenance and emergency callouts.

Republic Electric is now the owners of Signal Maintenance. They have agreed to honor all costs as agreed to under the Signal Maintenance contract of \$50,000 per year.

For FY 2004-05 the number of emergency call-outs has exceeded the anticipated amount resulting in costs exceeding the contract by \$30,000. Approximately 50% of these costs are due to an unusual circumstance of a costly signal pole at Tennant/Vineyard being knocked down by an overturned concrete truck. The other 50% of the \$30,000 additional costs was due to somewhat routine maintenance costs above the original contract amount. Based on this experience we estimate the cost to be \$15,000 more for fiscal year 2005-2006. A total contract cost increase of \$45,000 is needed at this time to ensure the ability to meet the costs of emergency call-outs through the end of the contract in FY 2005-06.

FISCAL IMPACT: Funding exists in the FY 2004-05 Streets operations budget to fund this contract amendment. It is also anticipated that approximately \$16,000 of this will be recovered through billing the insurance of the individual responsible for the pole damage at Tennant and Vineyard.

Agenda Item # 5

Prepared By:

Management Analyst

Approved By:

Department Director

Submitted By:

City Manager



CITY COUNCIL STAFF REPORT

MEETING DATE: March 2, 2005

APPROVE PAYMENT TO GRANITE CONSTRUCTION FOR EXTRA WORK RELATIVE TO OUR ANNUAL ASPHALT MAINTENANCE CONTRACT

RECOMMENDED ACTION(S):

Approve payment in the amount of \$21,245.75 to Granite Construction for pothole call-outs in excess of the contracted cost for annual pavement repair.

EXECUTIVE SUMMARY:

On July 21, 2004 Council awarded the annual contract for asphalt maintenance to Granite Construction in the amount of \$41,360 for FY 04/05. The contract provides for extra work not part of the contract to be done at agreed upon rates.

Additional work to date for FY 2004-05 for emergency pothole call-outs has exceeded the contract amount by \$21,245.75. Sufficient funding exists in our current Street Operations budget to fund this additional expenditure.

FISCAL IMPACT: Funding exists in the FY 2004-05 Streets operations budget to fund the additional pavement repair costs.

Agenda Item # 6

Prepared By:

Management Analyst

Approved By:

Department Director

Submitted By:

City Manager



CITY COUNCIL STAFF REPORT

MEETING DATE: MARCH 2, 2005

AWARD OF PROFESSIONAL SERVICES CONTRACT FOR THE PREPARATION OF AN ADDENDUM TO THE FINAL ENVIRONMENTAL IMPACT REPORT FOR BUTTERFIELD BOULEVARD

RECOMMENDED ACTION(S):

Authorize the City Manager to execute a consultant agreement for preparation of an Addendum to the 1992 Environmental Impact Report (SEIR) with David J. Powers and Associates, Inc. for the purposes of extending Butterfield Boulevard south, from Tennant to Watsonville, subject to approval by the City Attorney.

EXECUTIVE SUMMARY:

The FY 04-05 CIP budget includes funds to develop plan lines for several major arterial streets including Butterfield Boulevard from Tennant to Watsonville. Butterfield Boulevard will be a major north/south arterial west of Highway 101 and a key element of the City's General Plan circulation element.

On March 20, 1991, the Redevelopment Agency awarded a contract to David J. Powers & Associates, Inc. to prepare an Environmental Impact Report for Sutter Boulevard (currently named Butterfield Boulevard). The report was completed in October 1992 and includes limits from Cochrane Road to Middle Avenue. The City is now planning to establish an Official Plan Line for the portion between Tennant Avenue and Watsonville Road. The current EIR was performed thirteen years ago and it is necessary to update the existing EIR by identifying new potential impacts and addressing new requirements.

David J. Powers and Associates, Inc. submitted a proposal for this work for \$24,950 in February 2005 and are committed to completing the Addendum in 12 weeks. Staff recommends award at this time since they are the firm most familiar with this project.

The scope of work includes attending meetings and hearings, and preparing the Addendum. Primary issues include; Transportation, Noise, Cultural Resources, Biological Resources, Agricultural Resources, Water Quality and Land Use. The attached Proposal Letter provides a more detailed explanation of the fee estimate and Scope of Services for the project.

FISCAL IMPACT:

Funds totaling \$105,000 are budgeted this fiscal year for Plan Line Major Streets (CIP #501093) from the Traffic Impact Fee Fund (309).

Agenda Item # 7

Prepared By:

Associate Engineer

Approved By:

Public Works Director

Submitted By:

City Manager

**CITY OF MORGAN HILL
SPECIAL CITY COUNCIL MEETING
MINUTES – FEBRUARY 16, 2005**

CALL TO ORDER

Mayor Pro Tempore Tate called the special meeting to order at 6:03 p.m.

ROLL CALL ATTENDANCE

Present: Council Members Carr, Grzan, and Tate
Late: Mayor Kennedy (arrived at 6:09 p.m.) and Council Member Sellers (arrived at 6:20 p.m.)

DECLARATION OF POSTING OF AGENDA

City Clerk Torrez certified that the meeting's agenda was duly noticed and posted in accordance with Government Code 54954.2.

CLOSED SESSIONS:

Mayor Pro Tempore Tate announced the below listed closed session item:

1.

CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION

Authority:	Pursuant to Government Code 54956.9(a)
Case Name:	City of Morgan Hill, et al., v. American Alliance Always Available, et al.
Case Number:	Santa Clara County Superior Court, Case No. 1-03-CV-005788

OPPORTUNITY FOR PUBLIC COMMENT

Mayor Pro Tempore Tate opened the Closed Session item to public comment. No comments were offered.

ADJOURN TO CLOSED SESSION

Mayor Pro Tempore Tate adjourned the meeting to Closed Session at 6:04 p.m.

Mayor Kennedy joined the Council in closed session at 6:09 p.m. Council Member Sellers joined the Council in closed session at 6:20 p.m.

RECONVENE

Mayor Kennedy reconvened the meeting at 7:08 p.m.

CLOSED SESSION ANNOUNCEMENT

Acting City Attorney Siegel announced that the City Council gave authority to the City Manager and the City Attorney's Office to negotiate and conclude a settlement agreement in the case of the City of Morgan et al., v. American Alliance Always Available, et al.

ADJOURNMENT

There being no further business, Mayor Kennedy adjourned the special meeting at 7:10 p.m.

MINUTES RECORDED AND PREPARED BY:

IRMA TORREZ, CITY CLERK

**CITY OF MORGAN HILL
JOINT SPECIAL AND REGULAR CITY COUNCIL
AND SPECIAL REDEVELOPMENT AGENCY MEETING
MINUTES – FEBRUARY 16, 2005**

CALL TO ORDER

Mayor Pro Tempore/Vice-chairman Tate called the special meeting to order at 6:03 p.m.

ROLL CALL ATTENDANCE

Present: Council/Agency Members Carr, Grzan, Tate
Late: Mayor/Chairman Kennedy (arrived at 6:09 p.m.) and Council/Agency Member Sellers (arrived at 6:20 p.m.)

DECLARATION OF POSTING OF AGENDA

City Clerk/Agency Secretary Torrez certified that the meeting's agenda was duly noticed and posted in accordance with Government Code 54954.2.

City Council and Redevelopment Agency Action

CLOSED SESSIONS:

Mayor Pro Tempore/Vice-chairman Tate announced the below listed closed session items:

1.

CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION

Authority:	Government Code Sections 54956.9(b) & (c)
Number of Potential Cases:	4

2.

PUBLIC EMPLOYEE PERFORMANCE EVALUATION

Authority	Government Code 54957
Public Employee Performance Evaluation:	City Attorney
Attendees:	City Council

OPPORTUNITY FOR PUBLIC COMMENT

Mayor Pro Tempore/Vice-chairman Tate opened the Closed Session items to public comment. No comments were offered.

ADJOURN TO CLOSED SESSION

Mayor Pro Tempore/Vice-chairman Tate adjourned the meeting to Closed Session at 6:04 p.m.

Mayor/Chairman Kennedy joined the Council/Agency Board in closed session at 6:09 p.m.
Council/Agency Member Sellers joined the Council/Agency Board in closed session at 6:20 p.m.

RECONVENE

Mayor/Chairman Kennedy reconvened the meeting at 7:08 p.m.

CLOSED SESSION ANNOUNCEMENT

Acting City Attorney/Agency Counsel Siegel announced that no reportable action was taken in closed session.

City Manager/Executive Director Tewes announced that the Council/Agency Board would be returning to closed session at the conclusion of the regular session for the first item listed under the closed session.

SILENT INVOCATION

Mayor Kennedy announced that the Council would be adjourning the meeting in memory of Santa Clara County Fire Captain Mark McCormick.

PLEDGE OF ALLEGIANCE

At the invitation of Mayor/Chairman Kennedy, Marilyn Librers led the Pledge of Allegiance.

INTRODUCTIONS

City Manager Tewes introduced newly hired Director of Community Development Kathleen Molloy Previsich.

CITY COUNCIL REPORT

Council Member Mark Grzan stated that he did not have a report to present this evening, noting that last week the City Council made assignments to the various committees. He said that he is looking forward to his committee assignments.

CITY MANAGER REPORT

City Manager Tewes stated that he did not have a report to present this evening.

CITY ATTORNEY REPORT

Acting City Attorney Siegel said that he did not have a report to present.

PUBLIC COMMENT

Mayor/Chairman Kennedy opened the floor to public comment for items not appearing on this evening's agenda.

Robert Benich, Morgan Hill resident, indicated that in last week's Morgan Hill Times, the newspaper carried an article regarding the possible funding for a study to determine the feasibility of using wind generated power at the aquatics center. He did not believe that the City should be spending funds for such a study. He said that wind generated power is appropriate for remote locations where there are few individuals, but not appropriate inside city limits. He did not believe that the City should have large rotating machinery next to the aquatics center as they are noisy, ugly, dangerous, and tends to kill birds. However, he felt that it was appropriate to fund a study for using solar energy in two proven passive methods for reducing energy consumption. He said that solar hot water panels can be used to warm the pool water and supplement the use of gas heaters. Further, photovoltaic cells can be used to generate electricity and feed it back into the grid, both helping to reduce the electricity portion of the aquatics center PG&E bill. He indicated that they are proven technology and appropriate for areas of high density population. He urged the Council to not be swayed by arguments in favor of wind power because it has too many disadvantages and dangers.

City Manager Tewes noted that Mr. Benich's comments are relevant to item 13 on the agenda to be discussed later this evening and that the Council may wish to consider his comments at that time.

No further comments were offered.

City Council Action

CONSENT CALENDAR:

Mayor Kennedy indicated that it was his understanding that Item 7 is to be removed from the Consent Calendar and that staff has indicated that it would be scheduled for a future meeting date.

Action: *On a motion by Mayor Pro Tempore Tate and seconded by Council Member Sellers, the City Council unanimously (5-0) **Approved** Consent Calendar Items 1-6, and 8; tabling item 7, as follows:*

1. **FISCAL YEAR 2005-2006 OPERATING AND CAPITAL IMPROVEMENT BUDGET SCHEDULE**
Action: **Approved** *the Recommended Fiscal Year 2005-2006 Budget Schedule.*
2. **APPROVAL OF AMENDED SAN PEDRO PONDS JOINT USE AGREEMENT**
Action: **Approved** *the Amended Joint Use Agreement with the Santa Clara Valley Water District.*
3. **AWARD OF TRAFFIC SIGNAL INSTALLATION AT TENNANT AND HIGHWAY 101 SOUTHBOUND RAMPS**

Action: 1) **Appropriated** \$18,000 from the Current Year Un-Appropriated Traffic Impact Fund Balance (309) into the Project Account (502K03); 2) **Awarded** Contract to Granite Rock Company-Pavex Construction Division for the Construction of the Traffic Signal Installation at Tennant/Highway 101 Southbound Ramps Project in the Amount of \$428,309; Subject to Review and Approval by City Attorney; and 3) **Authorized** Expenditure of Construction Contingency Funds, Not to Exceed \$42,831.

4. **RESCHEDULING OF APRIL 2005 GENERAL PLAN AMENDMENT REQUESTS**

Action: **Directed Staff** to Reschedule the April General Plan Review Hearings to July 2005.

5. **SUPPORT OF LOCAL LIBRARIES – Resolution No. 5891**

Action: **Adopted** Resolution No. 5891 in Support of Local Libraries.

6. **RESIDENTIAL DEVELOPMENT CONTROL SYSTEM (RDCE) 2004 QUARTERLY REPORT #4**

Action: **Accepted** and **Filed** the RDCE Fourth Quarter Report for 2004.

7. **ACCEPTANCE OF DONATIONS FOR THE AQUATICS CENTER FROM MORGAN HILL AQUATIC CENTER, INC.**

Action: **Tabled.**

8. **IMPACT FEE AGREEMENT**

Action: 1) **Authorized** the City Manager to do Everything Necessary and Appropriate to Prepare and Execute an Agreement with the Operator and/or Owner of 15750 Monterey Road that: a) **Allows** Them to Pay Traffic/Sewer Impact Fees Based on the Maximum Number of Children Permitted at the Site Under Their State License at the Time of Pulling Building Permits for Tenant Improvements; and b) **Required** Them to Pay Additional Impact Fees if They Increase the Number of Children Permitted Under Their License in the Future.

Redevelopment Agency, City Council, and Financing Authority Action

CONSENT CALENDAR:

Action: On a motion by Mayor Pro Tempore/Vice-chairman Tate and seconded by Council/Agency Member Sellers, the City Council/Agency Board unanimously (5-0) **Approved** Consent Calendar Item 9 as follows:

9. **JOINT REGULAR REDEVELOPMENT AGENCY, SPECIAL CITY COUNCIL, AND MORGAN HILL FINANCING AUTHORITY COMMISSION MEETING MINUTES OF JANUARY 26, 2005**

Action: **Approved** the Minutes as Written.

City Council Action

OTHER BUSINESS:

10. REPORT FROM THE CITY COUNCIL'S APPOINTED 2006-CENTENNIAL STEERING COMMITTEE

Council Services & Records Manager Torrez presented the staff report, indicating that in June and July 2004, the Council agreed to appoint a Centennial Steering Committee to start the planning process for a year long celebration. At that time, the Council appointed a 7-member steering committee consisting of: Jennifer Tate, Janie Knopf, Marilyn Librers, Lorraine Welk, Vivian Varela, Brad Jones, and Ellie Weston. She informed the Council that Jennifer Tate would be presenting the Steering Committee's report.

Jennifer Tate informed the Council that 1994 was the 100 year celebration of the Morgan Hill Times and distributed a packet of information that talks about the Morgan Hill to be celebrated. She informed the Council that it did a brilliant job in the appointment of the steering committee as the synergy is incredible. She informed the Council that the steering committee began meeting in October, and that the group brainstormed about the types of activities that would be appropriate for the centennial celebration, including the appropriate products to be sold for the celebration. The Committee established regular meeting dates. She informed the Council that the Committee selected her as chair and Janie Knopf as the Vice-chair. Marilyn Librers has been appointed as the treasurer for the Committee. Brad Jones has taken on the commemorative products assignment. Lorraine Welk took on the community outreach aspect, whereby the Committee would be reaching out to all organizations in Morgan Hill, requesting that they use the centennial theme in 2006. She informed the Council that the Committee would like to establish a format whereby there would be a centennial event held each month in 2006. She indicated that Mr. Jones has sent out a letter to vendors looking for products to be sold. Bob Snow, Design Factory Graphics, is developing two logos: one to be used for the professional presentation and the other a "flashy" design needed for the celebration. She indicated that Ellie Weston and Vivian Varela are waiting to see their best fit in the organization. City Clerk Torrez has agreed to assist with record keeping and assisting in other areas, as needed. She stated that the Committee is excited about moving forward. The Committee is looking forward toward a community project that would be a citizen based effort which would culminate in a gift to the City.

Mayor Kennedy noted that the Committee has developed an organizational chart as well as a budget. He said that he did not see a timeline included in the report. However, he sees a timeline implied in some of the events that the Committee is showing such as a New Year's Eve party, a country fair and a November 10, 2006 celebration.

Ms. Tate stated that the timeline would generate itself once the Council approves the budget. She said that Ms. Librers is ready to solicit sponsorships from large corporations as well as smaller businesses. She said that the Committee is waiting to receive approval from the City Council to begin acting as a committee that has the authority to proceed, while asking for some money that would assist with start up costs.

Council Member Sellers said that it was reassuring to see the individuals who have agreed to undertake the City's centennial celebration as everyone is accomplished and dedicated to the community. In looking at the group, they should be commended for all to be undertaken. However, he noted that this is a diverse community. He recommended that youth and as many cultural/ethnic groups, organizations, and church groups as possible be invited to participate in the centennial festivities/activities.

Ms. Tate stated that the Committee will be looking toward student participation. She noted that the City has a Youth Advisory Committee in place. She said that youth participation has to be coordinated with the school year. The Committee is looking forward toward being recognized as the group to oversee the centennial activities and then will go out to seek student participation; including seeking a School District representative.

Mayor Kennedy noted that one of the listed recommended action items is the appointment of a two-member Council subcommittee to assist the Committee. He inquired where the two-member Council subcommittee would fit in the organizational chart.

Ms. Tate said that as envisioned, the Council subcommittee would be part of the committee. She said that the Committee would be looking toward the Council subcommittee to work hand in hand with the Committee as this is a community based celebration. She indicated that the Committee is seeking \$100,000 in funding, \$50,000 to be a loan. She said that there are significant unknowns at this time. She addressed the budget revenues and expenditures. She stated that the Committee wants to make sure that there is enough funding in place to proceed with events. The Committee will be conducting fundraising events. One large community activity is proposed that will be of little or no cost to those attending. She clarified that the Committee is requesting \$50,000 in the form of a loan and another \$50,000 that would be used to offset costs associated with the use of public facilities and to pay for public works and police staffing needs. She informed the Council that the Committee will be forming an alliance with the Morgan Hill Community Foundation who will be keeping funds in their bank account. Therefore, the Committee will have a non profit status. She said that it is the Committee's hope to be able to repay \$50,000 and donate whatever funds remain to the City, depending on the success of the fundraiser events.

Council Member Sellers said that it would be his preference to have the funding request go through the budget process in June in order to determine where the funds will be earmarked.

Ms. Tate said that waiting for the budget process would delay the Committee in moving forward. She informed the Council that Mr. Jones needs \$25,000 in start up funds and that the Committee has no where else to go for funding.

Mayor Kennedy opened the floor to public comment. No comments were offered.

Mayor Kennedy noted that the Steering Committee is requesting the Council appoint the Steering Committee as the permanent Centennial Committee and to approve their budget.

Ms. Tate clarified that the Centennial Committee would be seeking a Council liaison to assist the Committee.

Mayor Kennedy indicated that he would like to serve as a liaison to this committee as it would be appropriate for the Mayor to be involved with the centennial events.

Council Member Sellers felt that it would be appropriate for the Steering Committee to be the Centennial Committee with the understanding that this is to be an ever expanding organization, and that the Committee is to reach out to all segments of the community. He felt that the Committee has a good start and supports their efforts of becoming the recognized centennial committee.

Action: *On a motion by Council Member Sellers and seconded by Council Member Carr, the City Council unanimously (5-0) **agreed** to make the Steering Committee the Committee to plan for the City's centennial festivities/celebration, expanding the Committee to include a broader sector of the community.*

Mayor Kennedy noted that the Committee is requesting \$100,000 from the City with \$50,000 of these funds to be a loan to be repaid at the end of the centennial celebration, if there are funds to do so.

Council Member Sellers felt that the funding request is an appropriate one to be made and should be considered. He said that of the three funding sources identified, he was comfortable using one of the funding sources. He recommended that staff return with a more formal outline for the appropriate source of funding.

Council Member Tate inquired whether the Council could allocate the \$11,400 from the Community Promotion's budget in order to provide the Committee with seed money to begin with their planning activities. Further, that staff returns with a recommendation of where the funding is to be allocated.

Mayor Kennedy stated that he would support granting the \$100,000 from the City's General Fund reserves for this purpose as it is a one time expenditure and that the activities would benefit the community. He noted that there would be a significant return on investment in bringing business activities to the community, and that it would be an appropriate use of general fund reserves.

Action: *Mayor Pro Tempore Tate made a motion, seconded by Mayor Kennedy, to **appropriate** \$11,400 from the Community Promotions budget with the balance of the \$100,000 to come from the General Fund Reserves.*

Council Member Carr inquired whether staff was aware of other requests the City may receive for the use of Community Promotion funding.

Council Services and Records Manager Torrez informed the Council that Independence Day, Inc. typically requests funding and that the funding source is from the Community Promotion's budget.

City Manager Tewes said that City staff could ask the Committee to identify the amount of money needed as seed money prior to June 2005. The Council could provide the seed money and evaluate the balance of the request in the context of all other funding requests as part of the Fiscal Year 2005-06 budget process.

Mayor Pro Tempore Tate indicated that City Manager Tewes offered a good suggestion.

Action: *Mayor Pro Tempore Tate **withdrew** his motion.*

Council Member Sellers requested that staff contact Independence Day, Inc. to determine their funding needs prior to this item returning to the Council with a request for the approval of seed funding.

Action: *On a motion by Council Member Sellers and seconded by Council Member Carr, the City Council unanimously (5-0) **Continued** this item to its first meeting in March, **Directing** that the Committee identify the amount of seed money needed to move forward with the centennial celebration activities. The balance of the \$100,000 funding request to return to the Council as part of the Fiscal Year 2005-06 budget process.*

Council Member Sellers volunteered to serve on the Centennial Committee.

Ms. Tate clarified that Mayor Pro Tempore Tate would be assisting with the centennial celebration as a Rotarian versus a Council Member. Mayor Pro Tempore Tate would be working with the service organizations to have them spearhead the community project. This would be a finite function that would end immediately for him.

Action: *On a motion by Mayor Pro Tempore Tate and seconded by Council Member Carr, the City Council unanimously (5-0) **Ratified** Mayor Kennedy's appointment of himself and Council Member Sellers to serve as a Two-Member Council Subcommittee to Assist the 2006-Centennial Committee*

Mayor Kennedy indicated that during the course of some of the Steering Committee's meetings, the subject of memorabilia was raised with a poppy jasper theme. He indicated that he mentioned this fact to Peter Anderson and Bill Tykol. He indicated that these individuals would be a good source for poppy jasper.

11. DEPOT STREET UTILITY UNDERGROUNDING

Deputy Director of Public Works Bjarke presented the staff report, indicating that undergrounding of overhead utility lines is a significant project and a worthy goal to undertake for their aesthetic value and the danger they pose during earthquakes and fires. He informed the Council that the City recently received a transportation for livable communities grant to renovate Depot Street from Main Avenue to Fifth Street; a \$2.6 million project to completely renovate the street in conformance with the City's Downtown Plan. He indicated that this scope of work was not eligible under the grant program. Staff would like to handle this as a separate project and that it needs to get accomplished before commencing

the grant project. He noted that the grant project is scheduled for construction in summer 2006. He said that possible funding sources for the undergrounding would be the use of the City's Rule 20A PG&E credits, or using the City's underground in lieu funds, monies collected from developers. He informed the Council that staff is recommending the use of the in lieu fund option as the Rule 20A funds take a long time to achieve. Using the in lieu funding source would allow the utilities to be underground the summer before the grant project starts. He recommended that the Council authorize proceeding with the undergrounding of the overhead utilities on Depot Street using the in lieu fund balance. He indicated that the estimated cost for the project is approximately \$900,000 and that there is sufficient funds in the in lieu fee account to pay for this work.

Council Member Grzan inquired whether the City could approach the funding source to request an extension as there would be additional savings to the community by waiting to complete the work.

Mr. Bjarke responded that the City is constrained to meet the timeline for the use of grant funding. He felt that the City is better off sticking to the schedule in place. He said that the cost estimates would continue to go up the longer the City waits to complete the project. Therefore, staff would like to commence the project next summer.

City Manager Tewes said that if approved by the Council, staff will include this project in the Capital Improvements Program for review as part of the budget process. Staff would begin the design of this project and that in the course of the design; staff will address the implications for private property owners.

Council Member Sellers said that the downtown community, as a whole, is very interested and excited about this prospect. He said that with the timing of the courthouse being constructed affords the City an opportunity to facilitate significant development along Depot Street. He commended staff for its effort in securing this grant.

Mayor Kennedy opened the floor to public comment. No comments were offered.

Action: *On a motion by Council Member Sellers and seconded by Council Member Carr, the City Council unanimously (5-0) **Directed** Staff to Proceed with Undergrounding Existing Overhead Utilities along Depot Street from Main Avenue to East Dunne Avenue.*

12. MONTEREY UNDERGROUND UTILITIES PROJECT

Director of Public Works Bjarke indicated that this project goes toward the creation of a utility underground district in support of the Monterey Road undergrounding project. He stated that this would be an appropriate use of the PG&E Rule 20A funds and that in order to set this project up, the City will need to establish the utility undergrounding district. He requested that staff be authorized to talk to the affected property owners and proceed with a public information meeting in order to explain the undergrounding district process and how it works. He indicated that staff would report the findings of the meeting to the Council. Following this meeting, staff would schedule a public hearing that would

establish the district. Once the district is established, PG&E is notified that the City wants to use its PG&E 20A funds for this project. They, in turn, will schedule this project for design and construction.

Council Member Sellers noted that should vacant properties develop down the road; the undergrounding work will have already been completed. He inquired whether property owners would be required to pay into the undergrounding fees even though the segment of their property has already been undergrounded.

Mr. Bjarke said that the current City policy is such that property owners would pay for the undergrounding at time of construction or pay in lieu fees. If the undergrounding has already taken place, the property owner would pay into the undergrounding in lieu fees. Therefore, vacant properties will be charged to pay the undergrounding in lieu fees.

Mayor Kennedy opened the floor to public comment. No comments were offered.

Action: *On a motion by Council Member Carr and seconded by Council Member Sellers, the City Council unanimously (5-0) **Directed** Staff to Proceed with a Public Information Meeting and Report Back to Council.*

City Council and Redevelopment Agency Action

OTHER BUSINESS:

13. INVESTMENTS IN CAPITAL EXPENDITURES WITH POTENTIAL RETURN ON INVESTMENT

City Manager/Executive Director Tewes indicated that over the past couple of years, the Council/Agency Board has adopted a series of significant and important financial policies that brings to the City's budgeting process a more businesslike approach. Whereas, some individuals view the City's budget as dollars going out the door, this Council/Agency Board has stated that they do not only want to look at cost or expenses; but to look at opportunities to make investments. A financial policy is to look long range as a business does in making business decisions. He indicated that this year, at its retreat, the Council was able to reiterate its policy that it wants to encourage proposals from City staff to identify capital expenditures or investments that would result in high potential returns. These can come from economic development projects that can significantly increase the tax base in the community, or by significantly reducing operating costs. The Council has called this policy as "investing to save or gain." This evening, staff is proposing a recommendation for Council/Agency Board consideration with respect to the aquatics center. He noted that the Council's packet contains a report that addresses potential capital investment needs at the community center. However, staff is not recommending that the Council/Agency Board consider those at these times. Staff presented these items as examples of the types of projects staff is developing for Council/Agency Board consideration. He informed the Council/Agency Board that the aquatics center wish list has been around for a while and has been reviewed by the aquatics subcommittee. He said that some of these aquatics center items, if they are to realize a high potential return, should be pursued prior to the summer season in order to take advantage

of economic returns. He said that there will be a series of projects that will be presented as part of the Council/Redevelopment Agency's Fiscal Year 2005-06 comprehensive budget. He indicated that staff is recommending that the Council allocate \$600,000 of RDA funds for projects identified in category A. He indicated that Recreation and Community Services Manager Spier and Aquatics Supervisor Himelson are available to address these projects and to answer questions the Council/Agency Board may have.

Recreation and Community Services Manager Spier presented an overall list of the priority items as identified in category A. She said that if the City is to recapture the operating dollars, these items should be implemented before the next operating season. She noted that the staff report indicates that there will be a repayment period that reaches out three years. Should the Council/Agency Board approve the funding, it is staff's belief that the items will be made available for the May 2005 operating season. She proceeded to identify the items as listed in category A. She indicated that staff is proposing to study wind generation and solar heating as staff believes there is value with this item and that it will help the City with utility costs.

Mayor/Chairman Kennedy said that it was his understanding, in the original design, that the architects and engineers included wind and solar apparatus for solar heating, noting that it was eliminated. He inquired whether the City could incorporate solar heating units without having to proceed with a study. He inquired whether these features were built into the design in order to accommodate later installation of a solar heating unit.

Aquatics Supervisor Himelson distributed information on the wind generation and solar heating units. He indicated that the wind generation and solar heating apparatuses were not built into the design. He said that at the time of the design, items were value engineered out because the technology in place was not worth the investment. What is being looked into at this time is something that is more technologically advanced and will recover enough to make it worth the expenditure of moving forward with the project. He indicated that staff would like to bring in a consultant to look at the different options and make sure that what is finally agreed upon is the best option.

Mayor/Chairman Kennedy stated that it was his belief that the wind and solar heating units were value engineered out of the project after the design of the aquatics center was completed.

Glenn Ritter indicated that the solar heating unit originally designed for the project that was value engineered out was the black pipe system as it was inefficient and would cost approximately \$250,000 to install on a slopping roof. It was determined that the black pipe system would only preheat the water by only a couple of degrees and that the payback would be approximately 15-20 years. He said that in the existing system, there is connection ability and that additional piping would be required to attach a solar unit to the mechanical building.

Mayor/Chairman Kennedy indicated that as a mechanical engineer he has designed and installed systems similar to the one presented by staff; including one at his home that has glazed copper panels that are enclosed in a glazed system. He said that you need to have an engineer design and install the unit.

Mr. Himelson said that the glazed copper solar panel system described by Mayor/Chairman Kennedy is the system being looked at by staff. Based on the research to date, this system is the one that staff believes would be the best choice. He acknowledged that this would be a big investment, but felt that it could have a tremendous return on investment for the City. Therefore, staff would like to retain the services of a consultant knowledgeable in this industry to review staff's research, to date, and make additional recommendations/suggestions that would support the solar heating unit being considered or to point the City in a better direction.

Council/Agency Member Sellers felt that the City was heading in the right direction. He said that there are local firms that perform this type of work and recommended that local firms be given the work.

Ms. Spier said that staff is recommending that the Council/Agency Board provide funding for a study; clarifying that this is one option that staff is looking at.

Council/Agency Member Sellers referred to the entryway in terms of flow. He said that there were two issues associated with the flow: 1) having a system such that individuals can enter the facility and that staff can determine who they are quickly and efficiently; and 2) checking bags. He felt that these two issues were an operations issue.

Ms. Spier said that checking bags is an operational policy. She said that staff has a diagram on how staff proposes to address the entrance area between the kitchen and the administrative area. Staff proposes to make this area an entry area and relocate the exit to another section of the facility.

Mr. Himelson addressed the checking bag policy, indicating that it is from a safety perspective and a standard. He indicated that staff will be bringing to the Council/Agency Board policies relating to the bag, diaper and food issues. Staff will be putting together a written explanation list that will be handing out to patrons to ensure that consistent information is being provided. Staff will have more time this year to properly train staff. He did not believe that the problem was the implementation of the policy, but the inconsistency in the implementation of the policy. He indicated that there is space opportunity to allow for a smoother flow/entrance to the facility as well as additional space for the concession stands.

Council/Agency Member Sellers indicated that he has read about the stanchions and that it was his hope that the lines at the concession area will be a fraction of what they were last year. He inquired how far the stanchions would extend away from the building to the deck area. He expressed concern that the stanchions may become a safety hazard.

Mr. Himelson stated that staff is looking at creating space for two concession lines with stanchions that curve to the side, keeping individuals away from the pool area.

Ms. Spier noted that staff is asking to add/purchase vending machines and a second barbeque which will help to divide the concession lines. She did not expect the stanchions to go out any farther than they were last year.

Mayor/Chairman Kennedy inquired whether there was a way to keep the current ticketing window in place as an emergency backup for times needed (e.g., winter time).

Mr. Himelson said that staff proposes to retain the window for approximately one year to see how the new lobby works. Staff will perform a long term determination at a later date. If found that the current ticketing window is not needed, staff would like to remodel the area and use it as an administrative area.

Mayor/Chairman Kennedy said that he sees some items listed under Category B that are not costly, and felt that they would be good to implement. He referred to item 8, relating to painting of the PVC piping to yellow. He said that doing so would extend the life of the PVC piping for years. He felt that adding item 11, holes/bibs in the locker rooms, should have been incorporated in the original design, but was missed. He felt that its inclusion would cut down in costs and improve maintenance of the locker room.

Council/Agency Member Grzan inquired how the City got to a point of needing \$600,000 to refurbish a facility that is only eight months old. He noted that the City is proceeding with the construction of an indoor recreation center and that he did not want to see staff return with another list of “should have been done.”

City Manager/Executive Director Tewes said that in the course of bidding the center, a number of items clearly desired had to be eliminated in order to meet budget. He said that the Council/Agency Board gives staff constraints about budgets, scope, programming, and schedule. He indicated that a lot of tradeoffs are made. With respect to the indoor recreation center, staff could provide the Council with a similar list of items that staff wished could have been incorporated into the project. After the project is up and running in August 2006, staff may identify items that similarly meet the criteria the Council has established; a high return on investment. He said that the items identified have the potential of having significant savings in operational costs.

Council/Agency Member Sellers noted that Category A lists “success items” and that they are approximately two-thirds of the cost, including the second slide, concession area, re-ticketing, etc. These items are being requested due to the fact that the aquatics center is popular. He noted that most of the costs associated with these items would be recaptured. There are also enhancements proposed at \$500,000 and that the balance of the funding request is approximately \$200,000 for further design. He recommended that the Council/Agency Board keep in mind the proportions of expenditures.

Mr. Himelson, Ms. Spier, and Glen Ritter responded to various questions raised by the Council/Agency Board regarding a chlorine generator system, selling items to be pulled out, floor repair as they are not draining properly attributed to the design, location of a radiant floor heating system, application of epoxy color to concrete slab, boiler flu, brick installation, spare mechanical parts, and window covering to help with the noise in the event room.

In response to Council/Agency Member Grzan’s question, City Manager Tewes stated that any expenditure on the proposed investments will leave less money for other alternative programs. Staff is recommending the use of Redevelopment Agency funds rather than general fund reserves because the City is in the second, and projecting a third, straight year of deficit spending in the general fund. He

noted that the Council has adopted a strategy for the general fund such that it will bring the City back into balance over a period of time. This would require a revenue strategy that is not yet adopted. Had the revenue strategy been adopted, staff may have had a different recommendation. In light of the uncertainty, staff believes that it would be prudent to use Redevelopment Agency funds versus the general fund at this time.

Council/Agency Member Carr said that in reading the staff report, it is stated that approximately \$240,000 is proposed in increased revenues and savings per year by implementing the items identified by staff. He stated that he wants to make sure that if this list is approved, the City will not be aggressive in scheduling and operations. He would like to consider these expenditures as an investment. Should the library or other projects fall short in funding, the Council/Agency Board may come to the aquatics center and state that it has generated \$250,000 per year in savings. He felt that it needs to be stated that the City may need the new dollars in other areas in the future in terms of how the Council/Agency Board looks at the return on investment dollars.

Mayor Kennedy referred to item 6, parking option. In looking at the list provided by Ms. Spier, he noted that staff has identified \$70,000 - \$170,000 in parking options. Yet, staff is recommending a \$40,000 parking option

City Manager/Executive Director Tewes clarified that staff has put together a list of items and that there is very little precision in the estimates. It is staff's recommendation that the items listed be approved and that the Council allocate \$600,000 as a lump sum; directing staff to proceed with their installation. He said that staff intends to return to the Council/Agency Board with specific plans for the various items.

Council Member Tate noted that there is a high demand for the second slide. He inquired whether the request was based on the fact that individuals have to stand in line for a long time to use the slide.

Ms. Spier said that the second slide is another attraction that will accommodate the number of individuals utilizing the aquatics center. It was her belief that the second slide would enhance the experience at the aquatics center. She noted that the Sports Management Group was very clear in stating that a second slide would add approximately \$40,000 per year to the revenue by providing a variety of uses. She said that this revenue enhancement is a number that staff is focusing on. She informed the Council that staff already has the pillars in place and that the area looks incomplete. Therefore, it would be nice to complete the second slide and complete this particular area.

Council/Agency Member Sellers inquired as to the options the Council/Agency Board may wish to consider for recuperating some of the \$600,000 expenditures. He stated that the City will need funds to complete Redevelopment Agency projects such as the library.

City Manager/Executive Director Tewes said that it appears that the Council/Agency Board would like to take advantage of the savings. He said that the Agency could designate that a certain portion of the operational savings are to be paid back to the Redevelopment Agency.

Council/Agency Member Carr noted that the Council/Agency Board has a policy in place that all projects are to break even. He noted that the aquatics center broke even and was able to generate enough revenue to keep the center open all year round. As the Council/Agency Board thinks about the savings and additional revenues, the City can think about a new stream of revenue. As long as the center continues to pay for itself, the City has a new stream of revenue to be able to pay for other things in the general fund. He would like the City to look at these types of investments and not simply as the operating budget of the aquatics center savings.

Mayor/Chairman Kennedy agreed that some of the savings made at the aquatics center could help fund the indoor recreation center or the community center's operating costs. He said that he is not averse to using general fund reserves for one time purposes that increases the City's general fund revenues. He felt that this expenditure would do so. Should the Council/Agency Board decide to proceed with the use of RDA funds for this project, he would be willing to support the use of general fund reserves to supplement library costs; if additional funds are needed to move forward with the library.

Mayor/Chairman Kennedy opened the floor to public comment.

Chris Bryant expressed concern that the City is looking at the construction cost and not the ongoing operating costs. He did not want to see the City select an option that is cheaper, initially, that ends up costing more in the long term such as the chlorine system. He suggested that aquatics staff review the design of the indoor recreation center's aquatics portion of the design to apply their experience, and to make sure that the same mistakes are not repeated. Regarding the second slide, he supported its installation as it would spread out the crowds and offer a variety of uses. He indicated that he has heard that there is a three-year payback on a return on investments. With a \$600,000 investment, it was his belief that the City is looking at approximately \$200,000 per year in increased revenue/reduced costs based on the information presented by staff. He felt that the identified reduced maintenance cost could be applied toward other venues such as the community center to offset costs while maintaining the same overall budget.

Chuck Dillmann recommended that should the Redevelopment Agency fund the expenditure out of RDA funds, that a payback be a proviso to this. He questioned the 3-year payback period as it has been his experience that a 1-2 year payback period that was the only period that is being pursued because it becomes too elusive after this period of time. He further recommended that the Council/Agency Board conduct a thorough review of the chlorine system to be selected to ensure its reliability and longevity.

Ken Holick commended the Council for envisioning such a wonderful facility and the other facilities that are in the City's pipeline. He stated that his family moved to this community last May due to the fact that it is a progress community that thinks long term and investing in its future. He said that in his 30-years of experience in managing parks, not everything works and that some things need to be tweaked. He said that \$600,000 in funding for tweaking is reasonable, given the type of facility that the City will be managing.

No further comments were offered.

Mayor Pro Tempore/Vice-chairman Tate noted that the City has a successful facility in the aquatics center. If the City could leverage items in order to get money back, he felt that it would be worth the investment. He noted that the staff report includes requested improvements for the community center as well. He felt that the City would also have a list of items for the indoor recreation center and the library. He noted that the City is dealing with a finite amount of money. He supports the idea of making an investment on something that is known to be successful as it gives the City a lot more confidence in the capability of recapturing its investment. He said that the Council understood that the community center would not be as successful as the aquatics center in terms of return on investment. However, if the City does not fix such items as the community center's doors, the City may begin to lose rentals. He stated that he could support the \$600,000 expenditure, but expressed concern that the Council/Agency Board will be having the same problem with every one of its facilities. He agreed with Mayor/Chairman Kennedy's comments relating to the Category B items. He felt that the additional trash cans, phone and the wall clocks were necessities. He noted that these are low cost items and should be added. Funding for these items can come from the savings associated with the parking, floors, etc.

City Manager/Executive Director Tewes reminded the Council that for the aquatics center and the community center, a part of the annual operating costs includes an amount contributed to a separate fund for repair and replacement. He said that staff may be able to address the doors through the annual repair and replacement process rather than through the betterment/investment process. He stated that when staff presents the operating costs for the facilities, staff is funding depreciation for annual repair and replacement.

Council/Agency Member Sellers recommended that stronger closure on the lobby doors be added to the A list at a cost of \$1,000.

Action: *Council/Agency Member Sellers made a motion, seconded by Mayor Pro Tempore/Vice-chairman Tate, to approve staff recommended actions, incorporating items from list B as identified by the Council/Agency Board (e.g., item 4, additional trash cans; item 5 – courtesy phone at counter; item 8 – Paint PVC on slide yellow; item 11 – hose bib in locker rooms; and item 12 – wall clocks).*

City Manager/Executive Director Tewes said that it is his intent that staff's budget proposal includes a significant analysis on where the remaining investment opportunities and funding strategies are.

Mayor/Chairman Kennedy said that it was his understanding that the Council/Agency Board was not funding items for the community center because they were not as time sensitive and that they can be addressed as part of the budget process.

Council/Agency Member Carr said that he would like to have staff return to the Agency Board with an idea on how these monies would be paid back, and how the return on investment will benefit the City. He noted that it was not too long ago where the Agency Board increased funding for the indoor recreation center by \$300,000; the funding to be used on items that would provide cost savings and provide a three year return. As the Council/Agency Board develops the operating budget for this facility, he would like to see how the Council/Agency Board will be pulling these dollars out, repaying

the money and placing them into a fund that can be used for other items. He said that it was good to know that the City is funding for depreciation every year as part of the break even budget. He requested that staff place a lot of thought into this and return through the budget process, or separately.

Council/Agency Member Grzan inquired whether the Council wants to hold to the \$40,000 allocation for the parking.

Mayor/Chairman Kennedy noted that the City Manager/Executive Director is suggesting that there is a range of numbers and that they would look at these numbers; returning with a more specific recommendation.

City Manager/Executive Director Tewes said that it would be staff's recommendation that for the Category "A" list of items, in addition to those items added by the Council/Agency Board, it would not change the dollar recommendation. Staff is recommending that the Council/Agency Board allocate a lump sum of \$600,000. Staff would proceed to address the issues that are on the list. Staff would provide an appropriate parking facility that can be afforded within this lump sum of money; knowing that there are other items that need to be accomplished as well. He clarified that staff will not be spending money just for the sake of spending money. Staff will be mindful of the Council/Agency Board's direction; that it is looking for projects that have a high return on investment either through a gain in the economic development base or savings in operating costs.

Council/Agency Member Grzan concurred that any dollars taken out of RDA to pay for the aquatics center project are to be back filled, should additional funding be required for the library. He did not share the Council/Agency Board's sentiment on some of these projects; in particular that they are to be self sustaining. He said that he knows of no local recreation/aquatics program that receives 100% of its revenues from user fees. Although the aquatics center has had a successful summer, individuals may not return. He stated that he would like to see a longer trend versus a single year. He said that the return on investment estimate of \$200,000-\$250,000 may not be realized. Regarding the indoor recreation center, he did not believe that this would be a break even operation. He recommended that the Council/Agency Board be cognizant, and cautious in the use of City dollars and to use discretion in its decision making process.

Council/Agency Member Sellers said that all of the items discussed should be incorporated in the budget preparation. He requested that discussion be included about the reserve funds. He expressed concern that the Council is increasingly starting to discuss these funds as though they were a slush fund that the City has access to. He noted that the Council has not quantified where the funds are to go, but is dipping into the reserves when extra money is needed. He felt that the Council/Agency Board needs to quantify the reserves more specifically than it has in the past as part of the budget process.

Mayor/Chairman Kennedy clarified that it was his belief that the general fund reserves should be used for one time expenditures that will reduce operating costs. This is what he will be looking for when the Council enters into its budget review.

Vote: *The motion carried unanimously (5-0).*

14. CONSIDER CHANGE IN CITY COUNCIL-REDEVELOPMENT AGENCY MEETING TIME/STREAMLINING MEETINGS

Council Services and Records Manager Torrez presented the staff report, indicating that two Council Members requested that staff return with an agenda item that would allow the Council/Agency Board the ability to discuss meeting start times. Also, that staff return with an agenda item that would allow the discussion of how to better streamline the Council/Agency Board's agenda items. She requested that the Council/Agency Board provide staff with comments and direction.

Mayor Pro Tempore/Vice-chairman Tate indicated that it has been his observation that when the Council conducts workshops and closed sessions, that it is possible for the Council to meet at 5:30 p.m. for these types of meetings. He inquired whether the Council should schedule its closed sessions at 5:30 p.m., moving all other business items up ½ hour. Should the agenda items go long, this would only result in having to stay ½ hour later in the evening.

Council/Agency Member Carr said that he would need to make arrangements in order to attend 5:30 p.m. meeting sessions. He noted that the Council recently adopted a new committee structure of five standing committees that will be subject to the Brown Act. It is his hope to have a standing meeting for the one committee he shares on a night that the Council/Agency Board already meets, meeting similarly to the Finance & Audit Committee before closed sessions. He stated that he was not sure that the Council would be filling the time anyway. If it were not for the new committee structure and seeing the opportunity to combine two meetings in one night, he would be supportive of moving the meeting time earlier.

Council/Agency Member Grzan stated that it would be difficult for him to be in attendance at 5:30 p.m., on a regularly basis, as he would need to take time off from work to do so. He said that he would support starting regular meetings as early as 6:45 p.m., getting through the consent calendar, starting the regular meetings at 7:00 p.m., with public meetings commencing at 7:15 p.m. He indicated that he would like to make better use of the Council's commissions to address some of the items that have come before the Council/Agency Board. He would like to entrust the Council's advisory commissions with items relating to their purview. This would make better use of the Council's time and makes for an effective and efficient Council who can spend time on significant issues such as the \$1.2 million deficit that needs to be resolved.

Mayor/Chairman Kennedy indicated that he hears concern from several council members about moving the meeting start time to 5:30 p.m. He inquired whether a 6:00 p.m. meeting start time would work.

Council/Agency Member Carr stated that should the Council/Agency Board agree to meet every Wednesday, it eliminates the ability to schedule one of the assigned committees before hand. Should the Council bump closed sessions to 5:00 p.m. and schedule the regular meetings at 6:00 p.m., he could not schedule a 4:00 p.m. committee meeting.

Council/Agency Member Sellers said that he cannot arrive prior to 6:00 p.m. on two of the 4 Wednesdays. He noted that the Council agreed to conduct closed sessions prior to the regular meetings as the Council use to end up in closed sessions late in the evening. The Council could consider scheduling closed sessions at the end of the meetings. He noted that the municipal code states that the Council is to meet on the 1st and 3rd Wednesdays of each month. He said that in his six years on the Council, it is a rare Wednesday that the Council does not meet. He stated that he would like to return to meeting on the 1st and 3rd Wednesdays, if the meetings can be streamlined versus the practice of meeting 3-4 times a month. He stated that a 7:00 p.m. meeting start time is preferable, and that 6:00 p.m. is doable. However, prior to 6:00 p.m. would be problematic for him.

Council/Agency Member Sellers noted that the vast majority of the public hearings are for such items as development agreements and that these types of applications do not tend to generate a lot of interest. However, there are other items that generate a lot of public interest. He recommended that the public hearing time be listed the same time as the meeting start time. This would give the Council latitude to commence with the public hearings. Further, he did not believe that the Council needs to consider public hearings prior to other business items. Therefore, he would like to have a mechanism in place where Council and staff reviews the agenda order to identify items that need to be considered early on in the agenda. If there are public hearing items that are more than likely not going to generate public interest, he recommended that they be listed toward the end of the agenda. He noted that the material provided by Council Member Grzan states that if an item is pulled off the consent calendar, it is considered at the end of the agenda. He felt that this makes sense, as a policy, so that the Council does not generate discussion at the front end of the meeting. He recommended that items be agendized based on who will be in attendance and what is most efficient for the agenda.

Mayor/Chairman Kennedy said that the Council could simply amend the policy to stipulate the public hearings could start as early as 7:00 p.m.

City Manager/Executive Director Tewes informed the Council that staff has followed Council policy relating to the order of items on the agenda. He stated that he sits down with the City Clerk and determines the order of business, and that he tries to group items that have similar subjects or similar interests together. To the extent that there are problems with this, they are either the judgment that he has made about where to place items on the agenda or that it is the Council's policy that restricts the order of items. He noted that the Council is suggesting that the public hearings be called for 7:00 p.m. However, the order to which they are called up would reflect the importance of the issue, the nature of the issue, and whether there is an expectation that there will be a number of individuals in attendance. He said that there will always be challenges. He noted that individuals have paid application fees for public hearings. It was his belief that individuals will want certainty as to when their matter will be considered by the Council. He said that the Council has public policy issues that do not necessarily require a notice of public hearing, but that staff still needs to make judgments and inform large groups of citizens/constituents about when it is likely that their item will come up.

Mayor/Chairman Kennedy said that the City of San Jose has a subcommittee that puts together a report. The chair of the subcommittee gives a presentation and makes a motion prior to any discussion taking place. He noted that they limit their public comments to two minutes. This creates a meeting that moves

along quickly. However, he did not get a sense of adequate public interaction. It is more Council and staff driven and that there is less opportunity for public comments. He indicated that the Valley Transportation Agency Authority Board of Director's meetings are handled similarly to that of the City of San Jose. He said that he has seen situations where the public feels that they have been left out of the process, and that for many years that was a problem in Morgan Hill. He stated that he has worked hard to allow adequate time for public comment. He indicated that he would rather error on the side of the public rather than for them to feel that their comments have been cut off. He said that there are a variety of ways to conduct meetings, but felt that the way Morgan Hill conducts its meetings is good. He felt that recent problems were primarily driven by the workload seen in closed session and not the process.

Council/Agency Member Carr concurred with the comment made about erring on the side of more public comment than less. He noted that this is a part time council and that he does not have staff to seek answers to his questions before arriving to meetings. He felt that Council meetings and its interaction with staff is an important time for those who work full time and have families. He did not know if there was a better a way to improve the meetings, other than performing a little tweaking. He does not like the late meetings, but sees that the City is getting its work done and that individuals have not complained that they did not receive their opportunity to comment at the meetings. He felt that the Council could use its commissions in a better fashion. Requesting that commissions come up with workplans will give the Council the opportunity to know what they are working on and identify work items that the Council would like them to undertake. He felt that the Council could be more proactive with its commission and help them identify how their work fits in with what the Council is trying to accomplish; making Council goals known. He felt that the Council needs to give the new committee structure in place time to gel and see how they work; bringing items from this committee structure to the Council. He understands that the Mayor is giving speakers flexibility. However, he felt that there was too much abuse with multiple cards being turned in for one speaker. He recommended that the Council stop this practice. He would support giving citizens three minutes to address the Council with some flexibility and giving a project proponent enough time to explain their project. He felt that the Council needs to be stricter about when the speaker cards are turned (e.g., being turned in before the item is heard by the Council). This would lend toward credibility in the structure in the way discussions take place.

Council/Agency Member Sellers indicated that every suggestion he made was designed to enhance public opportunities. He did not like the fact that individuals have to sit for 1.5 hours because there are several public hearings to be considered prior to their items. He concurred that if a public hearing is the big item that everyone is in attendance for, it should be placed earlier on the agenda. However, if there are other items that are public oriented, he recommended that they be listed first on the agenda. He felt that this would be a policy issue.

Mayor/Chairman Kennedy noted that there is a time crunch to get items submitted in time to copy and distribute with the agenda. To add another step in the process would slow the process down.

City Manager/Executive Director Tewes said that it is a Council goal to have adequate time to review the agenda materials. Therefore, staff makes every effort to get the agenda packet distributed to the Council on Friday. It has been his judgment that the agenda order has not been a problem. He said that there are times when there are staff members from other agencies sitting in the audience and that the

Council likes to move items up. He said that he attends other agency meetings where he waits to the end of the agenda for his item. Should the Council wish to change its policy, staff can place items in an order that reflects the community's interest so that items of less interest are placed at the end of the agenda.

Mayor/Chairman Kennedy noted that he requested that staff include time estimates for each agenda item. It was his belief that time estimates help identify the length of time an item will take.

Council/Agency Member Sellers did not believe that it would take a lot of work to forward a copy of the draft agenda to the entire Council in order to take a look at the order of agenda items.

City Manager Tewes clarified that there is an internal deadline of Tuesdays for the preparation of staff reports and that the actual agenda outline does not get completed until Thursday.

Acting City Attorney/Agency Counsel Siegel said that to the extent that comments pertain to the length of an item and the substance of the issue cannot be a communication between the five Council/Agency Board members. It may lead to the discussion of the issue(s) outside of a public meeting. He stated that the review of the agenda may be handled by a Council subcommittee.

City Manager/Executive Director Tewes said that if there is flexibility with public hearing items, the Mayor/Chairman always has the prerogative to move items around. He said that this flexibility is not always there given the order established by Council policy.

Council/Agency Member Grzan felt that if there are a number of individuals in attendance for a particular item, the item should be placed earlier in the agenda. Further, if it is known that there is going to be a large turnout for an item on the agenda, he recommended that the Council limit public comments to 2 minutes per individual as opposed to the normal 3 minutes. He noted that comments tend to be repetitive when there are a number of individuals wishing to address the Council on a particular item.

Mayor/Chairman Kennedy indicated that it has been his practice to count speaker cards to determine the number of speaker of speakers who will be addressing the Council. If there is an agenda item and there are 30 speakers, he divides the time available and comes up with a time allocation. However, you cannot anticipate the number of speakers who wish to address the Council on any given meeting. He agreed that the Council needs to tighten up the speaker card process so that the Council has a better idea of how many speakers will be addressing an item(s).

Council/Agency Member Grzan stated that he would like to take a closer look at the issue of a single speaker using additional speaker cards to increase time presentation.

Mayor/Chairman Kennedy indicated that he has offered to allow a single spokesperson additional time to speak for a group of individuals. This is another tool to allow adequate public comment, and at the same time, not hearing 3 minutes of testimony from 30 people.

Council/Agency Member Sellers said that should an individual be speaking for a group of individuals, they could be given a certain amount of time to address the Council; but not the cumulative amount of time that has been past practice.

Council/Agency Member Carr agreed that flexibility for the situation of the moment is important. However, it was his belief that there has been too much abuse of the system of using multiple speaker cards by a single individual. He recommended that the Council/Agency Board adopt a policy whereby an individual is entitled to 3 minutes to address the Council and not allow individuals to pool their time. He felt that if there is going to be flexibility in time allotted, it has to be fair for both sides of the spectrum.

Council/Agency Member Sellers noted that the Redevelopment Agency meetings were once separated from regular council meetings. He noted that often times both bodies are agendized for the same meeting. He stated that it would be his preference to hold two meetings a month. If there are three meetings scheduled in a month, that this be the exception.

Mayor/Chairman Kennedy felt that Council/Agency Member Sellers' suggestion would result in having two long meetings as opposed to having three manageable, shorter meetings. He stated that he would take some of the Council/Agency comments relating to his chairing of meetings to heart and follow the suggestions. He did not see that there was anything that needed to be done to change the process with the exception of changing the public hearing time to start at 7:00 p.m.

Mayor/Chairman Kennedy opened the floor to public comment. No comments were offered.

Action: *On a motion by Council/Agency Member Sellers and seconded by Mayor Pro Tempore/Vice-chairman Tate, the City Council/Agency Board unanimously (5-0) **Directed** that Council Policy be amended to start the public hearings the same time as Council meetings. Staff to have the latitude to schedule public hearings in between items.*

15. CITY COUNCIL/REDEVELOPMENT AGENCY UPCOMING AND SUMMER MEETING SCHEDULE

Council Services and Records Manager Torrez presented the staff report; requesting that the Council/Agency Board indicate its preference in its upcoming meeting schedule. She informed the Council that depending on what day the Fourth of July falls upon, it may cancel a July meeting. However, this year, staff does not see that the Council's July schedule would bar the Council's participation from any of the Fourth of July festivities. Typically, the Council cancels one meeting in August.

Council/Agency Member Sellers indicated that he would be unavailable for the Council's June 1 meeting and requested that the Council consider moving the meeting to June 8. He recommended that instead of holding four meetings in July, that the Council try to consolidate one of the meetings (e.g., consolidate the July 20 and July 27 meeting, meeting on July 27). He further recommended that the Council cancel the August 17 meeting.

IRMA TORREZ, CITY CLERK/AGENCY SECRETARY



CITY COUNCIL STAFF REPORT

MEETING DATE: March 2, 2005

Agenda Item # 10

Prepared By:

Associate Planner

Approved By:

**Community
Development Director**

Submitted By:

City Manager

ZA -04-22 City Of Morgan Hill-Acreage Required for Animals RECOMMENDED ACTION(S):

1. Open/close Public Hearing
2. Waive the First and Second Reading of Ordinance
3. Introduce Ordinance

EXECUTIVE SUMMARY: The City Council at their October 6, 2004 meeting requested that staff and the Planning Commission review and amend the Animal and Land Use ordinance (Chapter 6.36) to allow more animals per acre or to possibly "grandfather" the number of animals allowed per acre. The Council requested the Commission provide recommendations for changing the code. The Council discussed the issue due to press coverage regarding a code enforcement case in which a tenant of a residentially zoned property had more livestock animals than permitted by the Code.

The Animal and Land Use ordinance allows two livestock animals per acre not to exceed two. In order to have more than two adult livestock, an animal use permit needs to be issued by the City Council after recommendation of approval by the Planning Commission. Staff could not find a record of an animal use permit being issued in the past 30 years. The City would process such an application on time and material basis. The ordinance does not distinguish between keeping of livestock for commercial uses and keeping of livestock for personal uses.

Staff presented amendments of Chapter 6.36 to the Planning Commission. The amendments included providing standards for keeping of livestock animals in residential zoned districts for private uses and definition for "corral" and "private uses". The Planning Commission recommended allowing the keeping of animals as a permitted use for private uses in residential zoned districts. The Commission recommended that a maximum of two adult livestock, regardless of type, and their immature offspring, may be kept per the first 40,000 square feet of lot area, then one adult livestock and its immature offspring for each additional 20,000 square feet of lot area. In addition, the Commission recommended that all livestock be securely enclosed in a corral, and the corral be setback fifty feet from the property line. For lots five acres and more, the setback for the corral should be increased to hundred feet from the property line.

The Planning Commission reviewed this amendment at their February 8, 2005 meeting. The Commission voted 6-0 to recommend adoption of the attached ordinance. Additional background information is provided in the attached Planning Commission memorandum and meeting minutes.

FISCAL IMPACT:

No budget adjustment required.

ORDINANCE NO.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING TEXT AMENDMENTS TO CHAPTER 6.36 (ANIMALS AND LAND USE) OF TITLE 6 (ANIMALS) OF THE MUNICIPAL CODE OF THE CITY OF MORGAN HILL. (ZA-04-22: CITY OF MORGAN HILL-ACERAGE REQUIRED FOR ANIMALS)

THE CITY COUNCIL OF THE CITY OF MORGAN HILL DOES HEREBY ORDAINS AS FOLLOWS:

SECTION 1. The proposed zoning amendment is consistent with the General Plan.

SECTION 2. INCORPORATING ZONING TEXT CHANGES BY REFERENCE. There hereby is attached hereto and made a part of this ordinance, a text amendment to Chapter 6.36 Animals and Land Use of Title 6 of the Morgan Hill Municipal Code, contained in the attached Exhibit "A."

SECTION 3. Severability. If any part of this Ordinance is held to be invalid or inapplicable to any situation by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance or the applicability of this Ordinance to other situations.

SECTION 4. Effective Date Publication. This ordinance shall take effect from and after thirty (30) days after the date of its adoption. The City Clerk is hereby directed to publish this ordinance pursuant to §36933 of the Government Code.

The foregoing ordinance was introduced at the regular meeting of the City Council of the City of Morgan Hill held on the 2nd Day of March 2005, and was finally adopted at a regular meeting of said Council on the Day of March 2005, and said ordinance was duly passed and adopted in accordance with law by the following vote:

AYES: COUNCIL MEMBERS:
NOES: COUNCIL MEMBERS:
ABSTAIN: COUNCIL MEMBERS:
ABSENT: COUNCIL MEMBERS:

ATTEST:

APPROVED:

Irma Torrez, City Clerk

Dennis Kennedy, Mayor

∞ CERTIFICATE OF THE CITY CLERK ∞

I, IRMA TORREZ, CITY CLERK OF THE CITY OF MORGAN HILL, CALIFORNIA, do hereby certify that the foregoing is a true and correct copy of Ordinance No. , New Series, adopted by the City Council of the City of Morgan Hill, California at their regular meeting held on the Day of March 2005.

WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL.

DATE: _____

IRMA TORREZ, City Clerk

EXHIBIT A

Section 6.36.030 Definitions.

For the purposes of this chapter, unless otherwise apparent from the context, certain words and phrases used in this chapter are defined as follows:

A. "Agricultural zone," "commercial zone," "industrial zone" and "residential zone" mean all areas within the city zoned for agricultural uses, commercial uses, industrial uses and residential uses, respectively, as established by the official zoning ordinances of the city.

B. "Corral" means an area enclosed by fencing for the keeping of livestock.

B.C. "Enclosed premises" means any lot or premises so enclosed as to prevent any animal or fowl confined thereon, escaping there from, or any animal or fowl from entering thereon.

C.D. "Health officer" means the county health officer acting as the health officer of the city.

D.E. "Household pets" means and includes dogs, cats, canaries, parrots and other kindred birds and animals which are legal to possess in the state of California, that are usually or ordinarily kept as household pets.

E.F. "Livestock" means and includes horses, ponies, mules, burros, jacks and jennies, cows, bulls, calves, heifers, llamas, sheep, goats, and all other domestic or domesticated animals that are legal to possess within the state of California except swine, hogs, pigs and other household pets.

F.G. "Person" means an individual, firm, partnership or corporation, and their heirs, assigns, executors, administrators or agents.

H. "Private use" means keeping of animals for private purposes and enjoyment and occasional sale.

G.I. "Poultry" means and includes chickens, turkeys, ducks, geese, pigeons and all other fowl including birds which are kept in outdoor aviaries.

H.J. "Poultry ranch" means any premises, including outdoor aviaries, where a combined total of fifteen or more domestic fowl and poultry are kept, maintained, harbored or controlled by any person. Poultry under three months of age and not exceeding fifteen in number shall not be considered in computing the number of fowl on the premises.

I.K. "Public stable" means any building or structure for the keeping of two or more horses which are not owned by the occupant of the premises, and are so kept for remuneration, hire or sale.

J.L. "Rabbits and small animals" means and includes hares, hamsters, chinchillas and guinea pigs, and all types of rodents.

K.M. "Rabbit ranch" means any premises where eight or more rabbits are kept, maintained, harbored or controlled by any person. Rabbits under three months of age and not exceeding fifteen in number shall not be considered in computing the number of rabbits on the premises.

L.N. "Rear yard" means a yard extending across the full width of the lot between the main building and the rear lot line; the depth of the required rear yard shall be measured horizontally from the nearest part of the main building toward the rear lot line. (Ord. 1443 N.S. § 1, 1999; Ord. 1209 N.S. (part), 1995; Ord. 135 § 2, 1962

6.36.175 Keeping of livestock for private uses in residential zoned districts. Livestock may be kept in residential zoning districts subject to the following conditions:

- A. Livestock may only be kept for private uses.***
- B. A maximum of two adult livestock, regardless of type, and their immature offspring, may be kept per the first 40,000 square feet of lot area. For each additional 20,000 square feet of lot area, one adult livestock, regardless of type, and its immature offspring may be kept.***
- C. All livestock shall be securely enclosed in a corral sufficient to keep them contained, which shall be located no less than fifty feet from property line. For lots of five acres and more, the setback for the corral shall be one hundred feet from property line.***



CITY COUNCIL STAFF REPORT

MEETING DATE: March 2, 2005

ZA-04-24: CITY OF MORGAN HILL-FENCE HEIGHT AMENDMENT

RECOMMENDED ACTION(S):

1. Open/close Public Hearing
2. Waive the First and Second Reading of Ordinance
3. Introduce Ordinance

EXECUTIVE SUMMARY: Staff presented to the Planning Commission proposed amendments to 18.56.070 (fences and hedges) and 18.56.150A1a (minor exceptions) of the Municipal Code. Staff requested that the Commission consider a change in the fence height due to the high number of minor exceptions received by staff to allow exceptions to the fence height. Recently, Code Enforcement received over 70 complaints for fence height violation. Many of the code violations would be mitigated if the fence height standard is changed.

Currently Municipal Code 18.56.070A allows fences or hedges to be six feet in height on any property line to the rear of the front setback line of any property, nor to exceed three feet in height from the front setback line to the street right-of-way. The Commission recommended that fences or hedges be allowed to be seven feet high except that the section of fence above six feet be uniformly open to the passage of light and air, as determined by the Community Development Director.

The Commission proposed additions to 18.56.070A recommending that fences over three feet high on street side corner lots be setback five feet from the property line. In addition, the Commission recommended that barbed wire, razor wire, and electric fences be prohibited on lots used for residential purposes.

Since the Commission recommends increasing the height of fences, the Commission also recommended amending Municipal Code 18.56.150A1a. This section of the code allows the Community Development Director to increase the height by two feet of any fence, wall, hedge, or equivalent screening for sloping sites or if there is a difference in grade between two adjoining sites, or if a site backs to a private or public open space. If the minor exception section is not amended, then nine-foot fences could be built. Thus, the Commission recommended amending the language to allow the Community Development Director to approve fences behind the front setback to be increased by one foot in height, and fences within the front setback to be increase by two feet in height.

The Planning Commission reviewed this amendment at its February 8, 2005 meeting. The Commission voted 6-0 to recommend adoption of the attached ordinance. Additional background information is provided in the attached Planning Commission memorandum and meeting minutes.

FISCAL IMPACT:

No budget adjustment required.

Agenda Item # 11

Prepared By:

Associate Planner

Approved By:

**Community
Development Director**

Submitted By:

City Manager

ORDINANCE NO.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING TEXT AMENDMENTS TO CHAPTER 18.56 (EXCEPTION AND MODIFICATIONS) OF TITLE 18 (ZONING) OF THE MUNICIPAL CODE OF THE CITY OF MORGAN HILL. (ZA-04-24: CITY OF MORGAN HILL-FENCE HEIGHT AMENDMENT)

THE CITY COUNCIL OF THE CITY OF MORGAN HILL DOES HEREBY ORDAINS AS FOLLOWS:

SECTION 1. The proposed zoning amendment is consistent with the General Plan and Zoning Ordinance.

SECTION 2. The zone change is required in order to serve the public convenience, necessity and general welfare as provided in Section 18.62.050 of the Municipal Code.

SECTION 3. INCORPORATING ZONING TEXT CHANGES BY REFERENCE. There hereby is attached hereto and made a part of this ordinance, a text amendment to Chapter 18.56 Exceptions and Modification and Title 18 of the Morgan Hill Municipal Code, contained in the attached Exhibit "A."

SECTION 4. Severability. If any part of this Ordinance is held to be invalid or inapplicable to any situation by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance or the applicability of this Ordinance to other situations.

SECTION 5. Effective Date Publication. This ordinance shall take effect from and after thirty (30) days after the date of its adoption. The City Clerk is hereby directed to publish this ordinance pursuant to §36933 of the Government Code.

The foregoing ordinance was introduced at the regular meeting of the City Council of the City of Morgan Hill held on the 2nd Day of March 2005, and was finally adopted at a regular meeting of said Council on the Day of March 2005, and said ordinance was duly passed and adopted in accordance with law by the following vote:

AYES:	COUNCIL MEMBERS:
NOES:	COUNCIL MEMBERS:
ABSTAIN:	COUNCIL MEMBERS:
ABSENT:	COUNCIL MEMBERS:

ATTEST:

APPROVED:

Irma Torrez, City Clerk

Dennis Kennedy, Mayor

⌘ CERTIFICATE OF THE CITY CLERK ⌘

I, IRMA TORREZ, CITY CLERK OF THE CITY OF MORGAN HILL, CALIFORNIA, do hereby certify that the foregoing is a true and correct copy of Ordinance No. , New Series, adopted by the City Council of the City of Morgan Hill, California at their regular meeting held on the Day of March 2005.

WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL.

DATE: _____

IRMA TORREZ, City Clerk

Exhibit A

Section 18.56.070 Fences and hedges

- A. No fence or hedge shall be constructed or grown to exceed ~~six~~ **seven** feet in height on any property line to the rear of the front setback line of any property, ***except that the section of fence above six feet shall be uniformly open to the passage of light and air, as determined by the community development director***, nor to exceed three feet in height from the front setback line of any property to the street right-of-way line except as may be allowed by Section 18.56.150(A)(1) of this chapter.
- B. A visibility clearance area shall be required on corner lots in which nothing shall be erected, placed, planted, or allowed to grow exceeding three feet in height. Such area shall consist of a triangular area bounded by the street right-of-way lines of such corner lots and a line joining points along said street lines twenty feet from the point of intersection.
- C. ***Corner Lots. Side setback area: Any fence over three feet in height shall be set back five feet on any side yard setback, which is adjacent to a street.***
- D. ***Prohibited Fences. Barbed wire, razor wire, and electric fences are prohibited from use on any parcel of property in the city that is used for residential purposes.***

Section 18.56.150 Minor exceptions.

- A. Authority. To ensure compatibility with surrounding uses and to preserve the public health, safety, and welfare, the community development director is authorized to grant a minor exception to the following code requirements:
 - 1. Fence Height.
 - a. In any district the maximum height of any fence, wall, hedge or equivalent screening may be increased by ***two feet in height within the front setback and one foot in height to the rear of the front setback line of any property*** ~~a maximum of two feet~~, where the topography of sloping sites or a difference in grade between adjoining sites warrants such increase in height to maintain a level of privacy, or to maintain effectiveness of screening, as generally provided by such fence, wall, hedge or screening in similar circumstances. The maximum height of any fence or wall may also be increased by a maximum of ~~two feet~~ ***two feet in height within the front setback and one foot in height to the rear of the front setback line of any property*** when located adjacent to public parks, other public spaces or adjacent to private common area parks and open space and where such increase in height would not unreasonably affect desirable views or vistas or the open space value of abutting sites.



CITY COUNCIL STAFF REPORT

MARCH 2, 2005

Agenda Item # 12

Prepared By:

**Council Services &
Records Manager**

**Recreation &
Community Services
Manager**

Submitted By:

City Manager

EFFECTIVE USE OF CITY COUNCIL ADVISORY BOARDS, COMMITTEES AND COMMISSIONS, INCLUDING WORKPLAN DISCUSSIONS

RECOMMENDED ACTION(S):

- 1) Consider Response from Parks & Recreation and Library Commissions regarding Terms of Office Schedule; and
- 2) Council Discussion and Direction

EXECUTIVE SUMMARY:

Council Member Grzan requested that staff agendize the discussion of the effective use of the Council's advisory boards, committees and commissions. He expressed concern that with the recently establishment five Council standing committees, these committees may take away some of the responsibilities of the Commissions, specifically, the Parks & Recreation Commission. Council Member Grzan felt that the Council's advisory bodies are capable of reviewing topics and recommending policies for Council consideration. He felt that making better use of the Council's Commissions would make the City a more effective organization. As such, staff has agendized Council Member Grzan's request for Council discussion.

On February 2, 2005, as part of the City Council's review on the evaluation of committees and commissions, the Council directed staff to: 1) request that the Library and Parks & Recreation Commission comment on the suggestions for modifications in their scope of responsibility; and 2) request that all citizen commissions prepare workplans for Council consideration during the annual budget process. Staff followed the Council's direction and presented the Library and Parks & Recreation Commission with Council's recommended actions. Staff reports that both commissions are supportive of the workplan concept, but had procedural questions on the schedule and how they would integrate the Council's goals and objectives. A concern to the Commission is the timing of term limits and the ability to recommend workplans to the Council. Both Commissions have terms expiring in April. Staff will note that the budget process begins in March with the draft budget document being presented to the Council in May. Staff would like to discuss the Commission's concerns relating to the terms of office and assignment responsibility(ies). Further, the Commissions would like to be presented with the Council's goals, once adopted; identifying specific workplan items it would like the Commissions to work on during the calendar year. (Attached, please find a memorandum from the Recreation and Community Services Manager relating to the Library and Parks & Recreation Commission feedback.) The Parks & Recreation and Library Commission are also requesting clarification on the role of the Council liaison. The Council may wish to consider holding a workshop with the Commissions to discuss workplan items and/or assignments as a means of communicating Council goals for the various commissions.

Staff requests that the Council provide direction regarding the following items: 1) Does the Council still consider a 2-year term limit as being an adequate appointment period or would a 4-year appointment be a better term period? 2) Should the recruitment process remain as is or should it be advanced to a November recruitment period with Council interviews/appointments to take place in January? A January appointment date would allow newly appointed Commissioners to commence their terms in February and be a part of the workplan budget process. 3) Does the Council wish to hold a workshop with the Boards and Commissions to discuss workplan items and goals for the calendar year?

FISCAL IMPACT: No fiscal impact.

CITY COUNCIL ADVISORY BODIES

Advisory Body	2 or 4 Year Term	Appointment/ Expiration	Ordinance Amendment required to Change Term?
Architectural Review Board	2	June	Yes
Bicycle & Trails Advisory Committee*	2	April	No
Library Commission	2	April	Yes
Mobile Home Rent Stabilization Commission	2	June	Yes
Parks & Recreation Commission	2	April	Yes
Planning Commission	4	June	Yes
Senior Advisory Committee*	2	August	No
Youth Advisory Committee*	1	June	No

* A subcommittee appointed by the Parks & Recreation Commission



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Agenda Item # 13

Submitted By:

City Manager

CONSIDERATION OF COUNCIL'S 2005 GOALS

RECOMMENDED ACTION(S): Adopt the revised Draft 2005 Goals

EXECUTIVE SUMMARY:

At the February 23, 2005 Council meeting, the City Manager presented a draft of City Council Policies and Goals for 2005. The City Council identified modifications and recommended additions to the policies and goals. Staff is in the process of revising the City Council Policies and Goals for 2005. However, staff was not able to complete the revisions to the Policies and Goals in time to be included with the agenda packet. Staff will distribute the revised draft 2005 Goals prior to the March 2 meeting for Council consideration and adoption.

FISCAL IMPACT: None